

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROBERT GENE REGA,)	
)	
Plaintiff,)	Civil Action No. 06-1575
)	
v.)	Judge McVerry
)	Magistrate Judge Caiazza
JEFFREY BEARD, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM ORDER

This prisoner civil rights complaint was removed from state court by Defendants on November 22, 2006, on the basis that Plaintiff Robert Gene Rega alleged a federal claim for denial of his Eighth Amendment right to be free from cruel and unusual punishment. The case was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates. The Plaintiff moved to remand (Doc. 2) and indicates that he is not, in fact, raising a claim under the Eighth Amendment.

The Magistrate Judge's Report and Recommendation, filed on January 11, 2007, recommended that the court dismiss Rega's Eighth Amendment claim with prejudice, and that it then remand the case to the state court. The parties were allowed ten days from the date of service to file objections. Rega filed objections on January 11, 2007.

After de novo review of the pleadings and documents in the case, together with the Report and Recommendation and the objections thereto, the following order is entered:

AND NOW, this 31st day of January, 2007,

IT IS HEREBY ORDERED that the Plaintiff's claim under the Eighth Amendment is DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that this case be remanded to the Court of Common Pleas of Greene County, Pennsylvania, forthwith.

The Report and Recommendation of Magistrate Judge Caiazza, (Doc. 9), dated January 11, 2007, is adopted as the opinion of the court.

s/Terrence F. McVerry
Terrence F. McVerry
U.S. District Court Judge

cc: Robert Gene Rega
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